

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Michael Nelson,

: Civil Action No.: _____

Plaintiff,

v.

GE Capital Retail Bank; and DOES 1-10,
inclusive,

: **COMPLAINT**

Defendants.

For this Complaint, the Plaintiff, Michael Nelson, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in the U.S. District Court for the District of Nevada pursuant to 28 U.S.C. § 1331, as Defendant transacts business in the State of Nevada.

PARTIES

4. The Plaintiff, Michael Nelson ("Plaintiff"), is an adult individual residing in Las Vegas, Nevada.
5. Defendant GE Capital Retail Bank ("GE"), is a corporation with the principal place of business at 950 Forrer Boulevard, Kettering, Ohio 45420.
6. Does 1-10 (the "Agents") are individual agents employed by GE and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as

parties once their identities are disclosed through discovery.

7. GE at all times acted by and through one or more of the Agents.

FACTS

A. Defendants' Abusive Behavior

8. Within the last year, GE contacted Plaintiff in an attempt to collect the Debt from Sandra Bigley (the "Debtor"), who Plaintiff does not know.

9. During the initial conversation and during every conversation thereafter, Plaintiff informed GE that he did not know the Debtor, that he did not know the whereabouts of the Debtor and that he was in no way responsible for the repayment of the Debt.

10. Plaintiff further informed GE that the calls were highly inconvenient and harassing and instructed GE to cease calling him in an attempt to collect the Debt.

11. However, despite having been so informed on numerous separate occasions, GE continued calling Plaintiff in an attempt to collect the Debt, placing approximately three (3) calls per day to Plaintiff's cellular phone on a daily basis. On one occasion, GE called Plaintiff eight (8) times in a single day.

12. GE employed automated dialers with pre-recorded messages to place calls to Plaintiff in an attempt to collect the Debt without Plaintiff's prior consent.

13. Oftentimes, when Plaintiff answered the phone in an attempt to get the calls to cease, there was a recording on the other end stating that GE had an important message for the Debtor. The recording did not provide an option to remove the number from GE's calling list, but gave an option to be connected to a representative, which Plaintiff sometimes followed in an effort to stop GE from calling him.

14. During several conversations, when Plaintiff informed GE that the Debtor could

not be reached at that number, GE used loud and aggressive tone saying “We know she is there! Put her on the phone now! We know you are related.”

15. GE also made comments like “We know you own your house” and threatened to place a lien on Plaintiff’s house if the Debt was not paid immediately, after being informed that Plaintiff was in no way associated with the Debt.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

16. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

17. Without prior consent the Defendants contacted the Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

18. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the Telephone Consumer Protection Act, including every one of the above-cited provisions.

19. The Plaintiff is entitled to damages as a result of the Defendants’ violations.

COUNT II
HARASSMENT

20. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

21. The Defendants, through the course of conduct identified herein, has continuously harassed, badgered, annoyed, and worried the Plaintiff regarding the claim, in an intentional and/or negligent manner.

22. The Plaintiff has been required to retain the undersigned as local counsel and

general counsel to protect his legal rights to prosecute this cause of action, and is therefore entitled to an award or reasonable attorneys' fees plus costs incurred.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants awarding the Plaintiff:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
2. Punitive damages; and
3. Such other and further relief that the Court may deem just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: August 16, 2012

Respectfully submitted,

By /s/ Stephanie C. Herdman

Stephanie C. Herdman, Esq.
Nevada Bar No. 5919
Stephanie Cooper, PC
2801 High View Drive
Henderson, NV 89014
Tel.: (855) 301-2100 Ext. 5531
Fax: (888) 953-6237
sherdman@lembertglaw.com

Of Counsel to:

Lemberg & Associates, LLC
1100 Summer St, 3FL
Stamford, CT 06905
Telephone: (203) 653-2250
Fax: (203) 653-3424